

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Ethan Bradley, Advisors, LLC,
a Michigan limited liability company,

Plaintiff,

v.

Case No.: 08-10768

Peritus I Asset Management, LLC,
a California limited liability company,

Honorable Sean F. Cox

Defendant.

ORDER OF DISMISSAL
FOR LACK OF SUBJECT MATTER JURISDICTION

Plaintiff Ethan Bradley, Advisors, LLC (“Plaintiff”) filed this action against Defendant Peritus I Asset Management, LLC (“Defendant”) in state court on or about January 23, 2008. Defendant then removed the action to this Court, asserting that this Court has federal question jurisdiction pursuant to 28 U.S.C. §1331. (*See* Notice of Removal at ¶ 4).

“[F]ederal courts have an independent obligation to investigate and police the boundaries of their own jurisdiction.” *Douglas v. E.F. Baldwin & Assocs., Inc.*, 150 F.3d 604, 607 (6th Cir. 1998).

“District courts have federal question jurisdiction of cases ‘arising under the Constitution, laws or treaties of the United States.’” *American Fed’n of Television and Radio Artists v. WJBK-TV*, 164 F.3d 1004, 1007 (6th Cir. 1999)(Quoting 28 U.S.C. §1331)). In order to establish federal question jurisdiction, a federal question must be disclosed upon the face of the complaint, unaided by the answer. *Ford v. Hamilton Investments, Inc.*, 29 F.3d 255, 258 (6th Cir. 1994).

Here, because the state court complaint does not disclose a federal question, this Court issued an Order to Show Cause on April 9, 2008, requiring Defendant to show cause, in writing, no later than April 16, 2008, why this action should not be dismissed for lack of subject matter jurisdiction. Defendant has not filed any response to the Show Cause Order and the time for doing so has now passed.

Defendant's Notice of Removal asserts that this Court has federal question jurisdiction over this action because the issues in this case arise "under Federal Law pursuant to the American Arbitration Act 9 USC 1 et seq." (*Id.* at ¶ 12). Merely referring to a federal statute, however, does not establish federal jurisdiction if the dispute does not involve a substantial question of federal law. *Ford*, 29 F.3d at 258. Moreover, "it is well established that the Federal Arbitration Act does not create any independent federal question jurisdiction." *American Fed'n of Television and Radio Artists*, 164 F.3d at 1007; *see also Ford, supra*.¹

The Court concludes that, contrary to the assertions in Defendant's Notice of Removal, this Court does not have federal question jurisdiction over this action. Accordingly, **IT IS ORDERED** that this action is hereby **DISMISSED FOR LACK OF SUBJECT MATTER JURISDICTION**.

S/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: April 17, 2008

¹In addition, the underlying contract that contains the arbitration provision at issue expressly provides that the contract "shall be governed by, and construed in accordance with, the laws of the state of [Michigan]." (*See* Ex. B to Def.'s Notice of Removal).

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_____ /

PROOF OF SERVICE

**I hereby certify that a copy of the foregoing Order of Dismissal was served upon
counsel of record on April 17, 2008, by electronic and/or ordinary mail.**

S/Jennifer Hernandez
Case Manager